



Project Name	Feed Delivery Model	Version	Final
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1. Introduction

The purpose of this document is to report on and assess against any potential Privacy Impacts as a result of the new model for delivery of official controls for feed and enforcement and use of the Feed Management Information System (FMIS) and associated and linked data on Feed (and Feed and Food) Business Operators and Authorised Officers.

2. Document metadata

2.1	Name of Project	Feed Delivery Model
2.2	Author of report	Gordon Wright, Project Specialist, Food Standards Scotland
2.3	Date of report	01/04/2021
2.4	Name of Information Asset Owner (IAO) of relevant business unit	Lorna Murray – Food Standards Scotland (FSS)
2.5	Data Protection Officer	Garry Mournian 
2.6	Date of DPO approval of this report	07/04/2021

3. Date for review of Privacy Impact Assessment (PIA)

3.1	Unless otherwise provided for at 3.2, a full privacy impact review will take place annually. The first review will take place on the first anniversary of the date of the commissioning of the first service provision.
3.2	FSS will carry out a privacy impact review as soon as practicable if one or more of the following occurs: • A notifiable data protection breach takes place; • There is a change in data protection law; • The PIA requires updating; or • Any circumstance in the opinion of FSS allows for a review.
3.3	A privacy impact review must be documented and must in the least record: • The date of the review; • The details of the review; • The start and completion dates of the review; • The name of the official carrying out the review;

	• Findings and recommendations; • Date the review is approved by FSS Data Protection Officer (DPO).
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4. Description of the project

4.1	Description of the work:
	<u>Background</u> Under The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020 Food Standards Scotland shall become Competent and Enforcement Authority for Feed Law in Scotland from 1st April 2021. In addition to official feed control functions service delivery partners will also conduct food business inspections, where a premises conducts both functions. FSS will assume core responsibility for the hosting and management of data associated with the programme, and the use of such data for intelligence lead risk assessment, inspection and follow up visit scheduling. Service delivery partner agents will have responsibility for the collecting of data during scheduled inspections, investigations and follow up visits. National enforcement powers (e.g. penalties and offences) and procedures for application for registration and approval were introduced in the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005 (S.S.I. 2005, No. 608), which came into force on 1 January 2006. The current legislation requires Local Authorities to carry out feed official control delivery and enforcement with EC Regulation 183/2005. Regulation 16 of the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005, as amended, defines the enforcement authority as Local Authorities in Scotland. <u>Enforcement</u> 16 (1) It is the duty of each feed authority to execute and enforce the provisions of these Regulations, those provisions of Regulation 178/2002 set out in regulation 15(2) and Regulation 183/2005 within its area. (2) Any feed authority may in writing appoint as authorised officers, either generally or specially, such persons (whether or not officers of the authority) as it considers necessary to act in matters arising under these Regulations, those provisions of Regulation 178/2002 set out in regulation 15(2) and Regulation 183/2005 Section 35 of The Food (Scotland) Act 2015 (FSA 2015), provides that Scottish Ministers may, for the purpose of regulating animal feeding stuffs , utilise

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	Section 35(2) to make a provision which applies (with or without modifications), or is equivalent or reasonably similar to, any of the provisions of the Food Safety Act 1990 (FSA 1990). This includes any power to make orders or regulations or to give directions. Section 60 (1) of the Food (Scotland) Act 2015 includes the power for Scottish Ministers to create subordinate legislation through an order or regulations as follows: (a) to make different provision for different purposes, (b) to make any supplementary, incidental, consequential, transitory, transitional or saving provision which they consider appropriate. A Feed Manual will be issued by Food Standards Scotland and provided to delivery agents. The manual sets out and explains the requirements of the EU Regulation on official controls, and how these apply to Local Authorities.
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5. Personal Data to be processed

Personal data	Data source
Feed business name	FSS (Feed premises register), Local Authority/ Scottish Government/Veterinary Medicines Directorate (VMD)/Agricultural Industries Confederation (AIC)
Feed business trading name if different from name	FSS, Local Authority/ Scottish Government/VMD/AIC
Feed business operator (FeBO) name and surname	Local Authority/ Scottish Government/VMD/AIC
Feed business address	Local Authority/ Scottish Government/VMD/AIC
FeBO address	Local Authority
Registration/premises identifying number	Local Authority/ Scottish Government/VMD/AIC
Feed business operator or premises email address	Explicit consent from FeBO
Feed business compliance information	Local Authority/ Scottish Government/VMD/AIC
Authorised Officer (AO) name and surname, email address.	Local Authority

6. Authority to process and control personal data of FeBO's

From 1 January 2021, any references to EU Regulations should be read as meaning retained EU law which can be accessed via the [EU Exit Web Archive](#). Retained EU law should be read alongside any EU Exit legislation which was made to ensure that retained EU law operates correctly and is published on [legislation.gov.uk](#).

From 1st April 2021 The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020 established FSS as the Competent Authority and amends the following regulations.

Statute	Provision	Competent Authority
Regulation (EC) No 2017/625	Article 4 – Designation of Competent Authorities	
	Article 6 – Audits of Competent Authorities	
	Article 8 and 11 Confidentiality obligations of the competent authorities and Transparency of Official Controls	
	Article 10 Operators, processes and activities subject to official controls	Local Authority/FSS
The Official Feed and Food Controls (Scotland) Regulations 2009	Regulation 4 - Exchanging and Providing Information	FSS
	Regulation 7 – Monitoring of Enforcement Action	FSS
	Regulation 8 - Power to request information relating to enforcement action	FSS
	Regulation 11 – Offences relating to regulations 8 and 9	FSS
Food (Scotland) Act 2015	Section 26 - Power to request information in relation to enforcement action	FSS

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European Feed Hygiene Regulation (Regulation 183/2005)	Article 9(3) – Maintain a register(s) of establishments	FSS
	Article 19 (1) – Record in a national list (s) registered establishments	FSS
Feed (Hygiene and Enforcement) (Scotland) Regulation 2005	Regulation 4 – Competent authorities for feed (for the delivery of official controls and enforcement action)	FSS

7. Authority to process and control personal data of AO's

Statute	Provision	Competent Authority
UK GDPR: Data Protection, Privacy and Electronic Communications (Amendments etc.)(EU Exit) Regulations 2020 and Data Protection Act 2018	Article 6(1)(e) (UK GDPR) and Section 8 (DPA 2018) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. (See 8 and 9 below)	FSS/Local Authority

8. GDPR Principles

Principle	Compliant	Description
Article 5(1)(a) - lawfulness, fairness and transparency	Yes	See 9. <i>Justification for processing and controlling personal data</i>
Article 5(1)(b) – purpose limitation	Yes	There will be no further distribution or use of the personal data beyond the requirement for compliance, monitoring or audit purposes as required by legislation and regulation and outlined in section 6 of this DPIA.
Article 5(1)(c) – data minimisation	Yes	The Feed delivery model does not require the collection of any new personal information not already collected from

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		• Local Authority, • Assurance Schemes (information is publicly available) • Veterinary Medicines Directorate (VMD) • Scottish Government Rural Payments and Inspections Directorate
Article 5(1)(d) – accuracy	Yes	Data is collected from all local authorities in Scotland and stored on a Microsoft Excel spreadsheet on a secure Scottish Government eRDM system. Following the commissioning of the new delivery model information required to deliver the functionality described will be accessed by service delivery partners through the Feed Management Inspection System. It is the responsibility of the service delivery partner, as required by Feed Law and the Feed Law Code of Practice (Scotland), to ensure the accuracy of data entered into the FMIS by their authorised officers.
Article 5(1)(e) - storage limitation	Yes	The data is stored on a Microsoft Excel spreadsheet on a secure Scottish Government eRDM system. Backup on all SCOTS systems takes place in accordance with the Terms of Supply for the Provision of ICT Services (September 2018). The MIS is hosted on ArcGIS Online, using Microsoft Azure and Amazon web services which is ISO 27001 infrastructure, compliant with the EU-US Privacy Shield Framework and with a fully published Cloud Security Alliance's Cloud Controls Matrix.
Article 5(1)(f) - integrity and confidentiality'	Yes	All data in the FMIS is accessible via individual user accounts which require authentication via enterprise logins which are now supported via SAML 2.0 providing federated identity management. User permissions will be set to restrict access to relevant data. Access to data is only granted to FSS personnel and authorised officers of

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		approved service delivery partners who need access to the information to perform FSS functions..
Article 6(1)(e) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.	Yes	FSS objectives include protecting public health from the risks that may be caused by food. This includes risks resulting from the way food is produced or supplied. To do this, a system of "Official Controls" is in place. Official Controls are delivered as defined within Regulation (EC) 2017/625, as are the checks such as inspections, surveillance and sampling, that are carried out to monitor if businesses are complying with the requirements set out in law. The majority of the checking and monitoring activity will be conducted by service delivery partners under delegation from the Competent Authority (FSS)

9. Justification for processing and controlling personal data

9.1	<u>FSS Official functions</u> • FSS as the competent authority for feed will be required to maintain an up-to-date list of feed business establishment in Scotland to ensure the effectiveness and appropriateness of Official Controls on feed at all stages of production, processing and distribution. • FSS will be responsible for having in place and operate contingency plans in the event of a feed emergency. • FSS has the function: ○ of monitoring the performance of Local Authorities in enforcing relevant legislation; ○ to develop policies in relation to food and feed matters; ○ to advise, inform and assist the Scottish Ministers and public bodies and officeholders and other persons in relation to food and feed matters; ○ to keep the public adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about food and feed matters; and ○ to monitor the performance of, and promote best practice by, enforcement authorities in enforcing feed legislation. • FSS has the power to delegate authority, in the delivery of official feed controls in Scotland, to appropriate service delivery partners • FSS has the power to request information relating to enforcement action.
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	FSS and Local Authorities are permitted to exchange amongst themselves any information received by them in the execution and enforcement of relevant feed law.
9.2	<u>What the personal data allows FSS to do</u> - Article 19 of Regulation 183/2005, requires feed authorities to maintain an up-to-date list of registered feed business establishments in their area. The responsibilities for this function, in accordance with the Feed (Hygiene and Enforcement) (Scotland) Regulations 2005, fall to both LAs and FSS. The Feed Delivery Model will use the data of registered feed establishments for the purposes of ensuring public health and the effective enforcement of feed law across Scotland. - The Feed Delivery Model will provide a means of managing feed official control data under a centralised mode of official control delivery for Scotland as agreed by The Board of Food Standards Scotland (FSS) (20 January 2016). - On the transfer of competence of feed to FSS in 2020, the FeBO data will be required to inform our risk rating and provide levels of inspections required each year. The risk rating has also built in earned recognition (where a feed business can benefit from reduced levels of official controls if they are members of assurance schemes).
9.3	<u>What FSS will not be able to do without this data</u> - Not having access to real time and up to date data will not allow FSS to: - Meet our legal responsibility to maintain national list or lists of feed business establishments - Respond in a timeous manner to a feed incident; - Identify/Predict potential incidents before they occur; - Identify links between FeBOs and feed incidents located in different locations across Scotland; - Identify linked feed Incidents through information sharing with other competent and authorised agencies (such as FSA); - Utilise data and information to better formulate feed control policies; - Properly advise the Scottish Ministers on matters relating to feed hygiene and safety; - Keep the public adequately informed about matters which significantly affect their capacity to make informed decisions about food and feed matters; - Reduce administrative burden on Local Authorities (or other service delivery partners) through effective and accessible monitoring of performance in the promotion of best practice. The availability of the data in consistent format and real (or near to real) time will enhance monitoring and audit practices and minimise regional variation in the delivery of Official Controls.

10. Principle, General and other FSS statutory duties and powers

Statute	Provision	Competent Authority
FSS act as Competent Authority for Feed from 01/04/2021 under the following Regulations and Acts and as amended by The Feed (Transfer of Functions) (Miscellaneous Amendments) (Scotland) Regulations 2020		
Regulation (EC) No. 2017/625	Article 4 - Designation of Competent Authorities and Operational Criteria	FSS
	Article 8 and 11 - Transparency and Confidentiality.	FSS
	Article 113 - Annual Reports	FSS
	Article 10(2) - Registration/Approval of Feed and Food Business Establishments	Local Authorities/FSS
The Official Feed and Food Controls (Scotland) Regulations 2009	Regulation 4 - Exchanging and Providing Information	FSS
	Regulation 7 - Monitoring of Enforcement Action	
	Regulation 8 - Power to request information relating to enforcement action	FSS
	Regulation 11 - Offences relating to regulations 8 and 9	FSS
Food (Scotland) Act 2015	Section 3(a) – Duty to develop (and assist Scottish Ministers and public bodies and office-holders) policies in relation to food matters and animal feeding stuffs matters. Section 3(b) Duty to advise, inform and assist the Scottish Ministers and	FSS

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	public bodies and office-holders in relation to food matters and animal feeding stuffs matters. Section 3(d) Duty to keep users of animal feeding stuffs adequately informed about and advised in relation to matters which significantly affect their capacity to make informed decisions about animal feeding stuffs matters. Section 3(e) Duty to monitor the performance of, and promote best practice by, enforcement authorities in enforcing legislation. Section 16. Power to do anything which it considers necessary or expedient for the purposes of or in connection with its functions.	
Food (Scotland) Act 2015	Section 19 - Duty to acquire, compile and keep under review relevant information	FSS
	Section 20 - Observations with a view to obtaining information	FSS
	Section 21 - Powers for persons carrying out observations	FSS
	Section 23 - Setting performance standards	FSS
	Section 25 - Reporting on enforcement action by others	FSS

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	Section 26 - Power to request information in relation to enforcement action	FSS
	Section 27 - Offences in relation to section 26	FSS
Regulatory Reform (Scotland) Act 2014	Section 5 - details the provisions for the Scottish Regulators' Strategic Code of Practice.	FSS
Scottish Regulators' Strategic Code of Practice	5. Risk and Evidence	FSS
	13. Clear and effective communication	FSS
	9. and 10. Understanding those they regulate and tailoring approaches accordingly	FSS

Feed Law Enforcement Code of Practice (Scotland) 2016

10.1	The role of the Feed Law Enforcement Code of Practice (the Code) is to ensure an effective, consistent and proportionate approach to the delivery of Feed Law and Official Controls by Local Authorities (or other authorised service delivery partners) across Scotland, in order to safeguard feed hygiene and enforce feed legislation.
10.2	The Code was issued under Regulation (EC) No 882/2004 on the Official controls to ensure verification of compliance with food and feed law, and requirements for Feed Hygiene – Regulation (EC) No. 1831/2003 and Regulation 6 of the Official Feed and Food Controls (Scotland) Regulations 2009 which empowers the Scottish Ministers to issue Codes of Practice concerning the execution and enforcement of feed law by Competent Authorities.
10.3	The co-ordination of feed authority advice and enforcement is essential to ensure uniformity of enforcement and consistency in dealing with feed businesses, especially those that have branches or units situated in different feed authority areas – Paragraph 1.1.6
10.4	The Code requires Local Authorities to contribute the data referred to at paragraphs 1.5.5 (feed establishment data)
10.5	Food Standards Scotland (FSS) can, after consulting with Scottish Ministers, give a Delegated Authority a direction requiring them to take any specified steps in order to comply with this Code.
10.6	Local Authorities that do not have regard to relevant provisions of this Code may find their decisions or actions successfully challenged, and evidence gathered during a criminal investigation being ruled inadmissible by a court.

10.7	The roll out of the FMIS for enabling LAs (or other service delivery partner) to streamline feed reporting will result in a new instruction to LAs.
10.8	The roll out of the FMIS, as a tool for inspection planning following competence transfers to FSS, shall be addressed in the Feed Manual (alternative to the Feed Law Code of Practice directed to authorities/bodies which are not the competent authority)

11. How will the Personal Data be processed

FSS directly collects feed law enforcement activity and the personal data from Local Authorities in Scotland on an excel spreadsheet annually or on request; the FMIS will allow this data to be more readily collected.

FSS uses the data to fulfil its obligations to keep a national list of feed establishments, in accordance with Article 19 of Regulation 183/2005

FSS will also collect and maintain records of inspection visits and proposed improvement or enforcement action within a central database populated through the FMIS interface.;

FSS may also wish to process the data for internal business purposes only, in order to inform policy on a Scotland wide basis. This will be based on collective information and trends and will not drill down to the level of individual businesses or personal data.

Personal data may be shared with other Government departments or branches of FSS in the event of incidents, investigations or other legally required duties.

12. How is the data used in the Feed Delivery Model protected?

The feed MIS is hosted on the ArcGIS platform, which is currently hosted in the USA. All ArcGIS Online data hosting complies with UK GDPR, and other international standards for data storage. It is intended later this year to install ArcGIS Enterprise onsite at FSS, which would allow FSS to move this data to being hosted on Scottish Government infrastructure.

A Data Processing Addendum is agreed between ESRI and FSS providing for the maintenance of Personal Data in compliance with UK GDPR.

The risk of loss or corruption of the feed premises data is low.

13. Who has access to the data used in the Feed Delivery Model?

Within FSS, access to the data held in relation to the Feed Delivery Model is controlled by system administrators who have the ability to grant access to the data for FSS personnel provided it is within FSS functions and there is business justification to do so.

The FSS system administrators also control access to the use of and data held on the FMIS. All access to data can be restricted to specific users, roles and groups. Data has been segmented and restricted geographically using layer views. This ensures that inspection and other staff only have visibility of personal data which is required in their roles.

The risk of unauthorised use or access to data held on the FMIS is low and all users are required to sign a confidentiality agreement prior to gaining access.

14. How will data be disposed of?

Local Authorities and FSS have well-established processes for the safe storage and appropriate disposal of data compliant with data protection legislation and the Public Records (Scotland) Act 2011.

The information held in the feed premises register and FMIS is updated on a rolling basis as inspections are carried out. Historical lists of registered and/or approved businesses are retained for 6 years to comply with regulation.

15. Management and accuracy of the data

The data will be owned and managed by FSS as the competent authority for feed law enforcement. Service delivery partners will be responsible for ensuring the accuracy of data collected and submitted in conducting delegated activities, within the Feed Delivery Model, on behalf of FSS.

16. Sharing of data

Part or parts of data may be shared within Scottish Government and UK Government and its agencies as well as EU Commission as permitted within the remit of the law.

17. Changes to data handling procedures

There will be no new or changed data collection policies or practices that may be unclear or intrusive or inconsistent with the Feed Law Code of Practice (Scotland) 2016.

There will be no changes to data quality assurance or processes and standards that may be unclear or unsatisfactory.

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There will be no new or changed data security access or disclosure arrangements that may be unclear or extensive.

There will be no new or changed data retention arrangements that may be unclear or extensive.

There will be no changes to the medium of disclosure for publicly available information in such a way that the data becomes more readily accessible than before.

18. Statutory exemptions/protection

FSS is not aware of any exemptions from the Data Protection Act which would apply to this project.

19. Stakeholder Consultation

A formal public consultation was carried out as detailed below :

Local Authority Stakeholders (FMIS)	Stakeholder Events	Summer 2016
Industry stakeholder (FMIS)	Stakeholder meetings	Summer 2016
Local Authority Stakeholders (FMIS)	LA meetings	April – September 2017
Industry and LA stakeholders (FMIS)	Stakeholder Events: Regular updates: National Agricultural Panel, LA Feed meetings, SCOTS meetings, AIC meetings	Various: ongoing

20. Risks identification and incorporation of privacy risks into planning

Risk	Ref	Result
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Personal data is inadvertently collected, processed and stored by Service delivery partner agents or officers of FSS on the FMIS as part of their functions as a competent authority.		Acceptable. Data sharing requirements and protocols to be discussed and agreed prior to implementation, including reference to legal advice if/where required.
Service delivery partners agents or officers of FSS collect/store personal data on unauthorised devices, physical material, software packages during the course of their inspections		Acceptable. Data sharing requirements and protocols to be discussed and agreed prior to implementation, including reference to legal advice if/where required. Where appropriate Service delivery partners and/or FSS to provide for adequate DPA training for authorised staff.

DPIA History

Completed by

Date	Author	Summary of Changes
01/04/2021	Gordon Wright	Sent for approval

Approvals

Name	Title	Date	Version
Lorna Murray	Head of Local Authority Delivery Division and IAO	07/04/2021	V. 1
Garry Mournian	DPO and Head of Food Safety & Standards Policy	07/04/2021	V. 1

Distributions

Name	Title	Date of Issue	Version